



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND  
1333 ISAAC HULL AVENUE  
WASHINGTON NAVY YARD DC 20376-2101

IN REPLY REFER TO

5720

Ser SEA 00A5/2014F000189F

August 11, 2014

Ms. Polly Parks  
Southern Recycling-EMR USA  
7005 Stone Mill Place  
Alexandria, VA 22306

SUBJECT: FREEDOM OF INFORMATION ACT CASE **DON-NAVY-2014-003379**

Dear Ms. Parks:

During the processing of your December 18, 2013, Freedom of Information Act (FOIA) request originally submitted to the Department of Transportation, Maritime Administration, personnel with that office located one document with Department of the Navy equities and referred it to this office for review and direct response to you.

After careful review of the Memorandum of Agreement between the Naval Sea Systems Command and the Maritime Administration for Dismantling of Stricken Navy Merchant-type Ships dated September 27, 2011, we have determined it can be released to you in its entirety. I am granting your request under the FOIA (5 U.S.C. S552), and Secretary of the Navy Instruction 5720.42F.

Fees for processing your request were minimal therefore, there were no assessable fees in the processing of this request. However, fees are based on a case-by-case basis and you may be charged fees on future requests.

If you have any questions concerning the foregoing, please contact Ginger Dolan at 202-781-3359.

Sincerely,

*Donna M. Hamlin*

DONNA M. HAMLIN  
Head, Freedom of Information  
Act Program  
By Direction of the Commander

Enclosure

ENCLOSURE

**MEMORANDUM OF AGREEMENT**  
**between**  
**The Department of Navy**  
**and the**  
**Maritime Administration**  
**for**  
**Dismantling of Stricken Navy Merchant-type Ships**

**I. PURPOSE AND AUTHORITY**

This Memorandum of Agreement ("MOA") is entered into between the Department of Navy (Navy) and the Maritime Administration (MARAD), hereinafter collectively referred to as the "Parties", to facilitate cooperation and set the responsibilities of the Parties in connection with the disposal of vessels. The intent of this MOA is to utilize the sales contracting expertise of MARAD's Ship Disposal Program to solicit and accomplish the dismantling of Navy merchant-type ships over 1500 gross tons that have been stricken from the Naval Vessel Register. In cases where a sale cannot be achieved, a procurement solicitation may be pursued based on mutually pre-determined terms and conditions. In cases where a procurement solicitation is not mutually agreed upon, this agreement will not apply.

The Navy and MARAD enter into this MOA pursuant to the authority of 31 U.S.C. § 1535, 40 U.S.C. § 548, and 50 U.S.C. App. § 1744.

**II. SCOPE**

MARAD is the designated vessel disposal authority within the Federal Government for all surplus merchant-type vessels of 1,500 gross tons or more, 40 U.S.C. § 548. This MOA is principally concerned with the processes to be followed in the sale by MARAD to vessel recyclers of Navy-owned vessels, located at the Navy's inactive ship facilities.

For such sales authority to be effective, title must transfer to MARAD by the time of the sale of the vessel. However, there is no requirement that the vessel in question be first delivered to a MARAD Reserve Fleet site. Detailed regulatory requirements for each party are called out as applicable in section three below. The scope of this MOA is expected to include the following vessels upon striking from the Naval Vessel Register and completion of Navy preparation actions, but will include such other further vessels as agreed upon by the Navy's Inactive Ship Command and the MARAD Office of Ship Disposal. The currently agreed upon vessels for purposes of this MOA are as follows:

Ex-Hayes (T-AG 193), removed from service 01 Oct 2008, and located at  
INACTSHIPMAINTO Philadelphia;  
Ex-San Jose (T-AFS 7), removed from service 27 Jan 2010, and located at  
INACTSHIPMAINTO Pearl Harbor;

Ex-Mount Baker (T-AE 34), removed from service 2 Aug 2010, and located at INACTSHIPMAINTO Philadelphia;  
Ex- Kiska (T-AE 35), removed from service 14 Jan 2011, and located at INACTSHIPMAINTO Pearl Harbor; and  
Ex- Shasta (T-AE 33), removed from service on 29 Apr 2011 and located at INACTSHIPMAINTO Pearl Harbor.

### III. RESPONSIBILITIES

- A. For each Navy vessel to be solicited by MARAD for dismantling, the Navy's Inactive Ships Program (PMS 333) will:
1. Identify all applicable weapon systems and/or their components as required by Department of Defense policy (DoD 4160.21-M-1), to be demilitarized by the dismantler as a condition of a sale or procurement contract and provide a list of the same to Office of Ship Disposal Programs;
  2. Clean marine growth from the underwater hull within 14-days of the ship's departure from a Navy facility as required by Section 3.01 of MARAD MA-496, unless the recycling contractor is located within the same biogeographical area as the location of the vessels. Standard practice will be to negotiate a joint operation with the towing and the hull cleaning contractors such that ship movements will be made to accomplish the cleaning and the tow connection as a sequential evolution;
  3. Ensure topside surfaces are substantially free of loose or exfoliating paint prior to the voyage as required by Section 4.01 of MARAD MA-496;
  4. Ensure topside surfaces are substantially free of residue and leaks from oil, grease and hydraulic fluids prior to the voyage as required by Section 4.1, 4.2 and 4.5 of MARAD MA-496;
  5. Provide to the Office of Ship Disposal Programs documentation of the completion of National Historic Preservation Act review compliance sufficient to permit allowing for the disposal of the vessel;
  6. Provide to the Office of Ship Disposal Programs a copy of all hazardous material surveys and documentation demonstrating compliance with the other requirements of INACTSHIPPOFFINST 4770.3B, Enclosure (7);
  7. Provide to the Office of Ship Disposal Programs a copy of the Booklet of General Plans (or general arrangement drawings) and the docking drawing, where available;
  8. Provide to the Office of Ship Disposal a report of the light ship displacement of the vessel, lightship survey if accomplished, liquid load and draft/trim readings of the vessels;
  9. Provide to the Office of Ship Disposal a repmt on the type and size of external and/or internal blanks on hull penetrations;

10. Allow reasonable access to the vessels by MARAD and recycling contractor personnel for the purpose of accomplishing pre-bid and post-award vessel inspections, sampling and surveys;
11. If required by MARAD, provide personnel or reimbursable funding sufficient to perform on-site surveillance during performance of the dismantling contract as well as any other work agreed to be performed by MARAD;
12. If a sales contract solicitation does not result in a contract award, then based on mutually determined favorable conditions of procurement solicitation, provide the agreed upon funding for the awarded contract;
13. Transfer title of the vessel to MARAD at the time designated by MARAD by documentation in form and substance satisfactory to the Navy and MARAD;
14. Provide access to the vessel and fund tow preparation costs as required by the contract; and
15. Release the vessel from Navy's physical custody to the tow master hired by the recycling contractor or the other designated entity agreed upon by Navy and MARAD.

B. MARAD's Office of Ship Disposal Programs will:

1. Ensure performance of tow preparations as required by the contract and to the satisfaction of USCG inspectors;
2. Perform the sales contracting officer functions and responsibilities in accordance with existing MARAD policies and procedures;
3. Disburse sales contract proceeds in accordance with existing MARAD authorities;
4. Perform on-site surveillance of the vessel dismantling on a reimbursable basis in accordance with existing MARAD policies and procedures;
5. If a sales contracting solicitation does not result in a contract award, solicit the ship for dismantling under MARAD's existing fee-for-service contracting procedures;
6. Provide PMS 333 with a copy of all dismantling status reports and contract deliverables; and
7. Perform such other work as Navy and MARAD agree upon on such terms as the parties may agree consistent with the requirements of applicable law.

#### IV. TERMS

- A. Resolution of Disputes: Should a dispute arise under this MOA that cannot be resolved, resolution of that dispute shall occur by the following process. Both parties will brief their most senior executive directors with copies of such briefs provided to the other party. The Maritime Administrator and the Deputy Commander for Surface Warfare, NAVSEA (SEA 21) will be the final and conclusive decision authorities.
- B. Funding: If MARAD forecasts its actual costs under a supplemental funding agreement will exceed the amount of funds available under that current funding document, it shall promptly notify PMS 333 of the amount of additional funds necessary to complete the work under that funding agreement. In such a case, PMS 333 shall provide (i) the additional funds to MARAD; (ii) require that the scope of work be limited to that which can be paid for by the then-available funds, or (iii) direct termination of the work covered under the funding agreement. MARAD will use its best efforts to provide PMS-333 with such forecasts as early as possible.
- C. For those contracts entered into by MARAD, MARAD shall be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. MARAD shall notify PMS 333 of any such litigation and afford PMS 333 an opportunity to review and comment on the litigation proceedings and any resulting settlement negotiations. No dispute involving the payment of funds by PMS 333 shall be settled without PMS 333 concurrence.

#### V. AMENDMENT, MODIFICATION, TERMINATION, DURATION, THIRD PARTY, RIGHTS AND LIABILITY

- A. This MOA may be modified or amended only by written, mutual agreement of the Parties. Either party may terminate this MOA by providing written notice to the other party. The termination shall be effective upon the sixtieth calendar day following the date of mailing of the notice, unless a later date is set forth. Notices shall be sent by no slower service than first class mail. However, the termination of this agreement shall not affect the rights and obligations of the parties with respect to disposal and sales actions commenced before the receipt of such termination notice and the funding of those actions. This MOA takes effect upon written acceptance by all parties and will remain effective until one or both parties receive notice of their intent to terminate this MOA.
- B. This agreement does not confer any rights or benefits on any third party and no third party is intended to be the beneficiary of this MOA.
- C. Each party of this agreement shall be liable for the acts and omissions of its own agents, servants, contractors, and employees.

## VI. EFFECTIVE DATE

This MOA shall become effective when signed by both MARAD and the Navy.

## VII. POINTS OF CONTACT

The points of contact for each of the signatory Parties are provided below. The Parties to this MOU may change their designated POCs, at any time, by notifying each of the other signatories in writing. Points of Contact for the Parties of this Agreement:

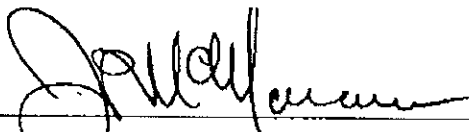
- Navy: Deputy Program Manager, Navy Inactive Ships Program (PMS-333).  
Mr. Glen Clark, (202) 781-0494, glen.a.clark@navy.mil.
  - o Naval Sea Systems Command  
Attn: PMS 333  
1333 Isaac Hull Avenue S.E.  
Washington Navy Yard, DC 20376
- MARAD: Director, Office of Ship Disposal (MAR-640).  
Mr. Curt J. Michanczyk, (202) 366-6467, curt.michanczyk@dot.gov.
  - o Maritime Administration  
West Building, W25-334  
1200 New Jersey Avenue S.E.  
Washington, DC 20590-0001

## VIII. MISCELLANEOUS

- A. Other Relationships or Obligations: This MOA shall not affect any pre-existing or independent relationships or obligations between MARAD and the Navy and is not intended to benefit anyone other than the Parties hereto.
- B. Survival: The provisions of this MOA which require performance after the expiration or termination of this MOA shall remain in force notwithstanding the expiration or termination of this MOA.
- C. Severability: If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.
- D. AntiDeficiency Act: As required by the AntiDeficiency Act, 31 U.S.C. §§1341 and 1342, all commitments made by Parties in this MOA are subject to the availability of appropriated funds and budget priorities. Nothing in this MOA, in and of itself, obligates the signatory Parties to expend appropriations or to enter into any contract, assistance

agreement, interagency agreement, or incur other financial obligations. Any transaction involving transfers of funds between the Parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

IX. SIGNATURES

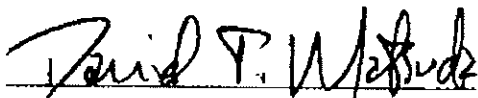


Department of the Navy  
RDML James P. McMahon

Deputy Commander  
Surface Warfare NAVSEA (SEA 21)

9/27/11

Date



Maritime Administration

Mr. David T. Matsuda

Maritime Administrator (MAR-100)

9/23/11

Date / /